

Dec. 3, 2004; amended June 15, 2007; amended Nov. 5, 2010; amended Dec. 28, 2012.)

**28-19-750. Hazardous air pollutants; maximum achievable control technology.** (a) 40 C.F.R. part 63 and its appendices, as in effect on July 1, 2010, are adopted by reference, except for the following:

- (1) The following sections in subpart A:
  - (A) 63.6(f)(1), (g), (h)(1), and (h)(9);
  - (B) 63.7(e)(2)(ii) and (f);
  - (C) 63.8(f);
  - (D) 63.10(f);
  - (E) 63.12;
  - (F) 63.13;
  - (G) in 63.14(b)(27), the phrase “and table 5 to subpart DDDDD of this part”;
  - (H) 63.14(b)(35), (39) through (53), and (55) through (62);
  - (I) in 63.14(i)(1), the phrase “table 5 to subpart DDDDD of this part”; and
  - (J) 63.15;
- (2) subpart B ;
- (3) subpart C;
- (4) subpart D;
- (5) subpart E;
- (6) subpart ZZZZ;
- (7) subpart DDDDD;
- (8) subpart JJJJJ;
- (9) subpart KKKKK.
- (b) 40 C.F.R. part 63 subpart ZZZZ, as in effect on July 1, 2009, is adopted by reference.
- (c) Unless the context clearly indicates otherwise, the following meanings shall be given to these terms as they appear in 40 C.F.R. part 63:

(1) The term “administrator” shall mean the secretary or the secretary’s authorized representative.

(2) The term “United States environmental protection agency” and any term referring to the United States environmental protection agency shall mean the department.

(3) The term “state” shall mean the state of Kansas. (Authorized by K.S.A. 2011 Supp. 65-3005; implementing K.S.A. 65-3008 and 65-3010; effective Jan. 23, 1995; amended June 6, 1997; amended June 11, 1999; amended Dec. 3, 2004; amended June 15, 2007; amended Nov. 5, 2010; amended Dec. 28, 2012.)

**28-19-750a. Consolidated federal air regulations; synthetic organic chemical manufacturing industry.** (a) 40 C.F.R. part 65 and its appendices, as in effect on July 1, 2010, are adopted by reference except for the following sections in subpart A:

- (1) 65.9;
- (2) 65.10; and
- (3) 65.14.
- (b) Unless the context clearly indicates otherwise, the following meanings shall be given to these terms as they appear in 40 C.F.R. part 65:
  - (1) The term “administrator” shall mean the secretary or the secretary’s authorized representative.
  - (2) The term “United States environmental protection agency” and any term referring to the United States en-

vironmental protection agency shall mean the department.

(3) The term “state” shall mean the state of Kansas. (Authorized by K.S.A. 2011 Supp. 65-3005; implementing K.S.A. 65-3008 and 65-3010; effective Dec. 3, 2004; amended Nov. 5, 2010; amended Dec. 28, 2012.)

## Article 29.—SOLID WASTE MANAGEMENT

**28-29-300. Definitions.** (a) For the purposes of K.A.R. 28-29-300 through K.A.R. 28-29-333, the following definitions shall apply:

- (1) “C&D” means construction and demolition.
- (2) “C&D contact water” means liquid, consisting primarily of precipitation, that has infiltrated through the C&D waste or has been in contact with the C&D waste for any period of time. This term shall include all runoff from the active area of the C&D landfill and all liquid derived from the C&D waste.
- (3) “C&D landfill” shall have the meaning assigned to “construction and demolition landfill” in K.S.A. 65-3402, and amendments thereto.
- (4) “C&D waste” shall have the meaning assigned to “construction and demolition waste” in K.S.A. 65-3402, and amendments thereto. For the purposes of this definition, the following clarifications shall apply:

(A) “Furniture and appliances” shall not include computer monitors and other computer components, televisions, videocassette recorders, stereos, and similar waste electronics.

(B) “Treated wood” shall include wood treated with any of the following:

- (i) Creosote;
- (ii) oil-borne preservatives, including pentachlorophenol and copper naphthenate;
- (iii) waterborne preservatives, including chromated copper arsenate (CCA), ammoniacal copper zinc arsenate (ACZA), and ammoniacal copper quaternary compound (ACQ); or
- (iv) any other chemical that poses a risk to human health or safety or the environment that is similar to any of the risks posed by the chemicals specified in paragraphs (a)(4)(B)(i) through (iii).

(C) “Untreated wood” shall include the following, if the wood has not been treated with any of the chemicals listed in paragraphs (a)(4)(B)(i) through (iv):

- (i) Coated wood, including wood that has been painted, stained, or varnished; and
- (ii) engineered wood, including plywood, laminated wood, oriented-strand board, and particle board.

(5) “Hazardous waste” means material determined to be hazardous waste as specified in K.A.R. 28-31-261.

(6) “Household hazardous waste” shall have the meaning specified in K.A.R. 28-29-1100.

(7) “Lower explosive limit” and “LEL” mean the lowest percent volume of a mixture of explosive gases in air that will propagate a flame at 25°C and atmospheric pressure.

(8) “Non-C&D waste” means all solid waste that is not specifically defined as construction and demolition waste in K.S.A. 65-3402, and amendments thereto. Non-C&D

(continued)

waste shall include hazardous waste and household hazardous waste.

(b) If a requirement in K.A.R. 28-29-300 through K.A.R. 28-29-333 conflicts with a requirement of K.A.R. 28-29-12 or K.A.R. 28-29-23, the requirement in K.A.R. 28-29-300 through K.A.R. 28-29-333 shall control. (Authorized by and implementing K.S.A. 65-3406; effective March 17, 2004; amended Dec. 28, 2012.)

**28-29-330. Control of hazardous and explosive gases at C&D landfills; applicability of additional requirements.**

(a) Applicability of additional design, operating, and postclosure requirements. The additional design, operating, and postclosure requirements of K.A.R. 28-29-332 shall apply to the owner or operator of each disposal unit at a C&D landfill that meets all of the following conditions:

(1) Location. Precipitation in all parts of the county in which the C&D landfill is located averages more than 25 inches per year. The following counties and any county located east of these counties shall be designated as meeting this condition: Jewell, Mitchell, Lincoln, Ellsworth, Rice, Reno, Kingman, and Harper.

(2) Capacity. The disposal unit meets one of the following conditions:

(A) The construction of the disposal unit begins on or after the effective date of this regulation, and the capacity of the disposal unit is more than 50,000 cubic yards. Construction of the disposal unit shall be in accordance with a construction quality assurance plan that is specific to the disposal unit and has been approved by the secretary.

(B) The construction of the disposal unit begins on or after January 1, 2014 and the capacity of the disposal unit, in combination with all other disposal units constructed on or after January 1, 2014, is more than 50,000 cubic yards. Construction of the disposal unit shall be in accordance with a construction quality assurance plan that is specific to the disposal unit and has been approved by the secretary.

(3) Hydrogeology. The disposal unit meets one or both of the following conditions, as evaluated and documented by a professional engineer or licensed geologist:

(A) The disposal unit is located within a 100-year floodplain.

(B) The permeability of the natural soils or the constructed soil liner or the natural geologic formation under the disposal unit is  $1 \times 10^{-7}$  centimeters per second or less, including quarry landfills with competent shale bases, unless the owner or operator demonstrates to the department that design and operational practices ensure that C&D contact water will exit the disposal unit by gravity flow.

(b) Applicability of corrective action requirements. The corrective action requirements of K.A.R. 28-29-333 shall apply to the owner or operator of each C&D landfill during the operating and postclosure periods. (Authorized by and implementing K.S.A. 65-3406; effective Dec. 28, 2012.)

**28-29-331. Control of hazardous and explosive gases at C&D landfills; documentation of conditions used to determine applicability.** Each person that submits an application for a new C&D landfill and each

owner or operator that proposes to construct a disposal unit at an existing C&D landfill shall submit to the department documentation of the conditions specified in K.A.R. 28-29-330, according to the following requirements:

(a) Required documentation.

(1) If the C&D landfill meets the location conditions specified in K.A.R. 28-29-330(a)(1), the applicant or the owner or operator shall submit documentation of the capacity of the proposed disposal unit and the capacity of each disposal unit constructed on or after January 1, 2014.

(2) If the proposed disposal unit meets the location and capacity conditions specified in K.A.R. 28-29-330(a)(1) and (2), the applicant or the owner or operator shall submit documentation of the hydrogeologic conditions specified in K.A.R. 28-29-330(a)(3). For the purposes of determining the applicability of K.A.R. 28-29-332, if the disposal unit meets one of the hydrogeologic conditions listed in K.A.R. 28-29-330(a)(3), the applicant or the owner or operator shall not be required to submit documentation of the other hydrogeologic conditions.

(b) Schedule for submission of documentation.

(1) Each applicant for a new C&D landfill permit shall include the documentation specified in subsection (a) with the permit application.

(2) Each owner or operator of an existing C&D landfill that proposes to construct a disposal unit shall submit the documentation specified in subsection (a) on or before the date the construction quality assurance plan for the disposal unit is submitted. (Authorized by and implementing K.S.A. 65-3406; effective Dec. 28, 2012.)

**28-29-332. Control of hazardous and explosive gases at C&D landfills; additional design, operating, and postclosure requirements.**

The owner or operator of each disposal unit at a C&D landfill that meets the conditions of K.A.R. 28-29-330 for determining the applicability of additional design, operating, and postclosure requirements shall comply with the following requirements:

(a) The owner or operator shall design, construct, and operate the disposal unit to prevent contact water from accumulating in the waste.

(b) The owner or operator shall perform both of the following:

(1) Demonstrate whether it will be necessary to pump contact water out of the landfill after the landfill closes in order to prevent contact water from accumulating in the waste; and

(2) include this information in the operating plan.

(c) If the operating plan states that contact water will be pumped out of the landfill after closure, the owner or operator shall obtain financial assurance for postclosure, according to the requirements of K.A.R. 28-29-2101 through 28-29-2113. (Authorized by and implementing K.S.A. 65-3406; effective Dec. 28, 2012.)

**28-29-333. Control of hazardous and explosive gases at C&D landfills; response, assessment monitoring, and corrective action.** The owner or operator of each C&D landfill shall comply with the following:

(a) Identification of potential problem. If the owner or operator observes or is informed of any indication of a

release of landfill gas, the owner or operator shall perform the following:

- (1) Immediately assess the potential danger posed to human health and safety;
- (2) immediately take all the steps necessary to ensure protection of human health and safety;
- (3) notify the department of the observation or information within two business days; and
- (4) in consultation with the department, implement appropriate action to assess the concentrations of gas at the landfill.

(b) Action levels. The owner or operator shall comply with the requirements of subsection (c) if gas concentrations exceed any of the following levels:

- (1) For methane, either of the following:
  - (A) 25% of the LEL (1.25% by volume) in any building on the facility property; or
  - (B) 100% of the LEL (5% by volume) at the facility property boundary;
- (2) for hydrogen sulfide, either of the following:
  - (A) 1 ppm for on-site personnel; or
  - (B) 0.1 ppm in the ambient air at the facility boundary, based on a 15-minute time-weighted average measured when the wind speed is less than 15 mph; or
- (3) for any gas other than methane or hydrogen sulfide, a level that presents a risk to human health or safety equivalent to the levels listed in paragraphs (1) and (2) of this subsection.

(c) Response and assessment monitoring. If the concentration of any gas exceeds the levels specified in subsec-

tion (b), the owner or operator shall perform the following actions:

- (1) If an exceedance is found at the facility boundary, immediately notify the local government's public health, environment, and emergency management offices;
- (2) notify the department within one business day;
- (3) within one week and in consultation with the department, develop a gas monitoring plan;
- (4) upon approval of the secretary, implement the gas monitoring plan; and
- (5) if gas monitoring has continued for one month and the frequency of the exceedances is not decreasing, take long-term corrective action according to the requirements of subsection (d).
- (d) Corrective action. If long-term corrective action is required, the owner or operator shall perform the following actions:
  - (1) Develop and submit to the department a corrective action plan, including provisions for the installation of an active or passive gas management system. The owner or operator shall submit the plan within 60 calendar days of the date the conditions requiring corrective action were met; and
  - (2) upon approval of the secretary, implement the corrective action plan. (Authorized by and implementing K.S.A. 65-3406; effective Dec. 28, 2012.)

Robert Moser, M.D.  
Secretary of Health  
and Environment

Doc. No. 041146

## INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the 2009 Volumes of the *Kansas Administrative Regulations* and the 2012 Supplement of the *Kansas Administrative Regulations*.

### AGENCY 1: DEPARTMENT OF ADMINISTRATION

Reg. No.	Action	Register
1-64-1	Revoked	V. 31, p. 171

### AGENCY 4: DEPARTMENT OF AGRICULTURE

Reg. No.	Action	Register
4-15-4	Amended	V. 31, p. 570
4-15-5	Amended	V. 31, p. 301
4-15-6	Amended	V. 31, p. 301
4-15-7	Amended	V. 31, p. 570
4-15-8	Amended	V. 31, p. 570
4-15-9	Amended	V. 31, p. 571
4-15-9a	New	V. 31, p. 571
4-15-10	Amended	V. 31, p. 571
4-15-13	Amended	V. 31, p. 572
4-28-3	Revoked	V. 31, p. 1276
4-28-4	Revoked	V. 31, p. 1276
4-28-6	Amended (T)	V. 31, p. 998
4-28-6	Amended	V. 31, p. 1276
4-28-7	Revoked	V. 31, p. 1277
4-28-31	New (T)	V. 31, p. 998
4-28-31	New	V. 31, p. 1277

### AGENCY 5: DEPARTMENT OF AGRICULTURE—DIVISION OF WATER RESOURCES

Reg. No.	Action	Register
5-9-3	Amended	V. 31, p. 773

### AGENCY 7: SECRETARY OF STATE

Reg. No.	Action	Register
7-23-4	Amended	V. 31, p. 197
7-23-14	New	V. 31, p. 197
7-36-7	New	V. 31, p. 198
7-36-8	New	V. 31, p. 199
7-46-1	New	V. 31, p. 199
7-46-2	New	V. 31, p. 199
7-46-3	New	V. 31, p. 200

### AGENCY 14: DEPARTMENT OF REVENUE—DIVISION OF ALCOHOLIC BEVERAGE CONTROL

Reg. No.	Action	Register
14-13-1	Amended (T)	V. 31, p. 1356
14-13-13	Amended (T)	V. 31, p. 1357
14-13-16	New (T)	V. 31, p. 1358
14-13-17	New (T)	V. 31, p. 1359
14-16-25	Amended	V. 31, p. 1427

### AGENCY 16: ATTORNEY GENERAL

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16-12-10	New (T)	V. 31, p. 1359-1365

### AGENCY 20: CRIME VICTIMS COMPENSATION BOARD

Reg. No.	Action	Register
20-2-5	Revoked	V. 31, p. 1031
20-3-1	Revoked	V. 31, p. 1031
20-3-2	Revoked	V. 31, p. 1031

### AGENCY 22: STATE FIRE MARSHAL

Reg. No.	Action	Register
22-25-1	New	V. 31, p. 973
22-25-2	New	V. 31, p. 974

### AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT

Reg. No.	Action	Register
28-31-10	Amended	V. 31, p. 196
28-35-600		
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28-35-608	New	V. 31, p. 90-93
28-54-1		
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28-54-5	Amended	V. 31, p. 280-282
28-56-1		
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28-56-10	New	V. 31, p. 708-711

### AGENCY 30: DEPARTMENT FOR CHILDREN AND FAMILIES (FORMERLY DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES)

Reg. No.	Action	Register
30-46-10	Amended (T)	V. 31, p. 887
30-46-10	Amended	V. 31, p. 1126

### AGENCY 40: KANSAS INSURANCE DEPARTMENT

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40-1-37	Amended	V. 31, p. 887
40-1-48	Amended	V. 31, p. 887
40-4-42c	Amended	V. 31, p. 170
40-5-7	Revoked	V. 31, p. 114

### AGENCY 44: DEPARTMENT OF CORRECTIONS

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44-5-115	Amended	V. 31, p. 301
44-9-101	Amended	V. 31, p. 302
44-9-105	Amended	V. 31, p. 303
44-9-107	New	V. 31, p. 304
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44-9-504	New	V. 31, p. 304, 305
44-11-111	Amended	V. 31, p. 193

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